

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE CHOICE IS YOURS, INC. and
JAMES SMALLWOOD,

Plaintiffs,

v.

THE CHOICE IS YOURS, DISTRICT
ATTORNEY SETH WILLIAMS,
PHILADELPHIA DISTRICT ATTORNEY'S
OFFICE, CITY SOLICITOR SHELLEY
SMITH, PHILADELPHIA LAW
DEPARTMENT, THE CITY OF
PHILADELPHIA, MAYOR WILSON
GOODE, PUBLIC/PRIVATE
VENTURES, AMACHI, INC.,
PHILADELPHIA LEADERSHIP
FOUNDATION, REP. DWIGHT EVANS,
OGONTZ AVENUE REVITALIZATION
CORP., and MICHAEL L. NIX, ESQUIRE,

Defendants.

CIVIL ACTION NO. 14-1804

ORDER

AND NOW, this 5th day of September, 2014, after conference with counsel and by agreement of all counsel of record, it is hereby **ORDERED** as follows:

1. The Amended Complaint with attachments (Doc. No. 53, 55), filed July 24, 2014, shall be deemed to have been filed and served upon defendants as of September 4, 2014 for purposes of calculating the time to serve a responsive pleading pursuant to Federal Rule of Civil Procedure 12. Accordingly, the defendants shall have a period of 21 days from September 4, 2014 to file any responsive pleading or motion to dismiss provided, however, that the following motions that were filed subsequent to July 24, 2014 shall be deemed to have been timely filed to the Amended Complaint:

- a. Answer and Affirmative Defenses of Defendant, Public/Private Ventures, to Plaintiffs' Amended Complaint (Doc. No. 57), filed on August 7, 2014;
 - b. State Representative Dwight Evans' Motion to Dismiss Plaintiffs' Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. No. 58), filed on August 7, 2014, as well as Plaintiffs' Response in Opposition to Defendant Evans' Motion to Dismiss Pursuant to FRCP 12(b)(6) (Doc. No. 71), filed on August 21, 2014;
 - c. Answer and Affirmative Defenses of Defendant Ogontz Avenue Revitalization Corp. to Plaintiffs' Amended Complaint (Doc. No. 69), filed on August 15, 2014;
 - d. Answer and Defenses of Defendants Mayor Wilson Goode, Amachi, Inc., and Philadelphia Leadership Foundation to the Plaintiffs' Amended Complaint (Doc. No. 70), filed on August 18, 2014; and
2. The following Motions to Dismiss are **WITHDRAWN WITHOUT PREJUDICE** pursuant to the motions to so withdraw, filed September 4, 2014 (Doc. Nos. 85 and 86), which are hereby **GRANTED**:
 - a. Motion to Dismiss the Amended Complaint (Doc. No. 74) filed by Defendants, The City of Philadelphia, City Solicitor Shelley Smith, and the Philadelphia Law Department, is hereby deemed **WITHDRAWN WITHOUT PREJUDICE**.
 - b. Motion to Dismiss the Amended Complaint (Doc. No. 59) filed by Defendants, The Choice is Yours, District Attorney Seth Williams, and the

Philadelphia District Attorney's Office, is hereby deemed **WITHDRAWN**
WITHOUT PREJUDICE.

3. The following motions are **DENIED AS MOOT**:
 - a. Defendants' Mayor Wilson Goode, Amachi, Inc. and Philadelphia Leadership Foundation Motion to Extend Time for Filing Response to Plaintiffs' Civil Action Complaint (Doc. No. 63), filed on August 18, 2014;
 - b. Motion to Strike Defendant Ogontz Avenue Revitalization Corporation's Answer [to Plaintiffs' Amended Complaint] (Doc. No. 77), filed on August 26, 2014; and
 - c. Motion to Strike Defendants Mayor Wilson Goode and Philadelphia Leadership Foundation's Answer [to Plaintiffs' Amended Complaint] (Doc. No. 78), filed on August 26, 2014.
4. The following motions which were filed in response to the original Complaint are **DENIED AS MOOT** as a result of the filing of the Amended Complaint and subsequent Motions to Dismiss:
 - a. Motion of Defendants, The Choice is Yours, District Attorney Seth Williams and the Philadelphia District Attorney's Office, to Dismiss Plaintiffs' Complaint (Doc. No. 32), filed on June 9, 2014; and
 - b. State Representative Dwight Evans' Motion to Dismiss Plaintiffs' Complaint Pursuant to Fed. R. Civ. P 12(b)(6) (Doc. No. 39), filed on June 9, 2014.
5. The Clerk of Court is directed to **STRIKE** the following defaults:
 - a. Default by Ogontz Avenue Revitalization Corp. to Plead or Otherwise Defend, entered on August 15, 2014; and

- b. Default by Michael L. Nix for Failure to Appear, Plead or Otherwise Defend,
entered on August 27, 2014.
- 6. The parties shall comply with the order directing targeted discovery entered this date.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.